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SIPDIS

DEPARTMENT FOR IO/S - ABRAHAMS/JACOBSON, L - BETTAUER,
L/UNA - KIINGI, L/PIL - KOVAR, L/CID - CLODFELTER

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TAGS: [ABUD](#) [AFIN](#) [AORC](#) [IBPCA](#)

SUBJECT: PCA: ADMINISTRATIVE COUNCIL ADOPTS BUDGET PROPOSAL

REF: A. PCA DOCUMENT CAC 43.389 (JULY 16 2003)

[1](#)B. SANDERS-BETTAUER MEMO (AUGUST 25 2003)

[1](#)C. KAYE-VAN DEN HOUT LETTER (AUGUST 28 2003)

[1](#)1. (U) The Administrative Council of the Permanent Court of Arbitration (PCA) decided by consensus on Monday, September 15, to adopt Secretary General Tjaco van den Hout's proposed budget (ref A) for the biennium 2004-2005. Consistent with the USG position found in ref B, the Secretary General explained that the scale to be adopted would not be the OECD's so-called IOS scale for the coordinated organizations but rather the scale adopted by the OECD proper. He underscored that PCA staff, unlike OECD staff, will not be receiving any of the benefits otherwise included in the OECD salary system. Responding to previous discussions he held with major contributors and P-5 members, the Secretary General also confirmed that the PCA will remain committed to the user-pays approach of registry fees, whereby arbitrating parties pay the costs of registry services and other arbitral fees. He also said that the prevailing fee schedule would continue to be the basis of such fees and that he would make sparing application of fixed-fee arrangements. Finally, van den Hout noted that he is working to secure from the Dutch Government a continuation of its subsidy for purposes of renting space at the Peace Palace.

[1](#)2. (U) The PCA, which has labored under a budget designed at the beginning of the 20th Century, has seen its workload outgrow its budget over the past decade. (NB: The PCA, the first of the international dispute settlement bodies founded in The Hague, was established during the First Hague Peace Conference in 1899. It plays important roles in matters of concern to the USG, including as Appointing Authority for the neutral arbitrators of the Iran-U.S. Claims Tribunal, and has played a key role in arbitrations of sensitive state-to-state disputes, including the recent Ethiopia-Eritrea boundary claims.) While Member State assessed contributions have remained steady, the PCA has relied on extrabudgetary funding, mostly through registry fees for arbitration services, to handle the increased workload, but the result was a small and poorly paid staff of high quality. In the face of these difficulties and increased competition for legal talent from better-paying, higher-profile institutions such as the International Court of Justice, International Criminal Tribunal for the Former Yugoslavia and the International Criminal Court, van den Hout sought to put the PCA budget onto more stable footing, hoping in the process to prevent the likely attrition his small organization faced. The initial two proposals, beginning in March of this year, would have provided for extensive increases in the PCA budget and had the Administrative Council commit, in principle, to a budget scheme extending beyond 2005. Few Member States were prepared to accept these early proposals. As a result, van den Hout decided to pare back his proposal significantly.

[1](#)3. (U) The adopted budget proposal's main feature is its shifting of the majority of core staff positions to the regular budget, which is funded out of Member State assessed contributions. Under the biennial budget, the staff funding will move to the regular budget in fiscal year 2004, and the salary scale of the OECD will be applied to the staff beginning in fiscal year 2005.

[1](#)4. (U) Embassy legal officer, drawing on refs B and C, expressed the USG's acceptance of the PCA's budget proposal on the condition cited by the Secretary General (i.e., application of the OECD salary scale). Emboff noted the USG's strong support for the PCA and further noted that its continuing support of the organization would depend upon the PCA's adherence to basic budgetary principles applied to IOS across the board. In particular, emboff noted the importance of cost containment and a continued search for efficiencies in the budget, such as keeping in check discretionary operating expenditures with a view to further savings; the USG expectation that the PCA will look to apply surplus registry fees to the regular budget so as to alleviate the increase in assessments; and the continuing importance of zero nominal budget growth upon stabilization of the PCA budget.

SOBEL